

CORRECTED COPY

LEGISLATIVE BILL 3

Approved by the Governor February 6, 1993

Introduced by Executive Board: Warner, 25, Chairperson

AN ACT relating to the Department of Environmental Quality; to amend sections 2-1504.02, 2-15,100, 2-3241, 2-4215, 2-4604, 46-2,109, 46-656, 46-663, 46-665, 46-673.03, 46-674.02, 46-674.03, 46-674.04, 46-674.05, 46-674.11, 46-674.13, 46-674.15, 46-674.16, 46-1102, 46-1107, 46-1108, 46-1109, 46-1217, 46-1227, 60-2201, 60-2205, 66-1105, 66-1504, 69-2011, 77-27,150, 77-27,151, 77-27,152, 77-27,154, 81-1533, 81-1537, 81-1538, 81-1540, 81-1561, 81-1584, 81-1586, 81-1587, 81-15,118, 81-15,125, 81-15,126, 81-15,127, 81-15,129, and 88-550, Reissue Revised Statutes of Nebraska, 1943, and sections 46-657, 46-658, 46-673.05, 46-674.06, 46-674.07, 46-674.10, 46-674.12, 46-674.14, 46-674.18, 49-506, 66-1518, 66-1522, 66-1529.02, 81-1504.01, 81-1505.01, 81-15,120, 81-15,123, 81-15,124, 81-15,124.01, 81-15,124.02, 81-15,149, 81-15,151, 81-15,153, 81-15,161, 81-15,166, and 81-2602, Revised Statutes Supplement, 1992; to substitute a phrase related to the renaming of the Department of Environmental Control, the Director of Environmental Control, and the Environmental Control Council; to harmonize provisions; to repeal obsolete provisions relating to duties of the department that were to be completed by December 31, 1987, January 1, 1988, and October 30, 1988; and to repeal the original sections, and also sections 46-1301, 46-1302, 46-1303, 81-15,144, 81-15,145, and 81-15,146, Reissue Revised Statutes of Nebraska, 1943, and section 81-15,180, Revised Statutes Supplement, 1992.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-1504.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1504.02. The Nebraska Natural Resources Commission shall establish a technical advisory committee to assist it in the performance of its duties. The committee shall consist of the director of the Conservation and Survey Division of the University of Nebraska, the director of the Water Center of the University of Nebraska, the dean or director of the Cooperative Extension Service of the University of Nebraska, the Director of Water Resources, a representative of the office of the Governor, a representative of the Department of Health, a

representative of the Department of Environmental ~~Control~~ Quality, a representative of the Department of Economic Development, a representative of the Department of Roads, a representative of the Game and Parks Commission, and one representative each from the United States Army Corps of Engineers, Department of Agriculture, and Department of the Interior if named to so serve by their respective secretaries.

Sec. 2. That section 2-15,100, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-15,100. The state water planning and review process shall be conducted under the guidance and general supervision of the Director of Natural Resources. The Nebraska Natural Resources Commission shall approve the form and content of all reports produced through the planning process. The director shall be assisted in the state water planning and review process by the Department of Water Resources, the Game and Parks Commission, the Department of Agriculture, the Governor's Policy Research Office, the Department of Health, the Department of Environmental ~~Control~~ Quality, ~~and the University of Nebraska-Lincoln Water Resources Center and Water Center of the University of Nebraska, and the Conservation and Survey Division of the University of Nebraska.~~ In addition, the director may obtain assistance from any private individual, organization, political subdivision, or agency of the state or federal government.

Sec. 3. That section 2-3241, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3241. Each district shall have the power and authority to provide technical and other assistance as may be necessary or desirable in rural areas to abate the lowering of water quality in the state caused by sedimentation, effluent from feedlots, and runoff from cropland areas containing agricultural chemicals. Such assistance shall be coordinated with the programs and the stream quality standards as established by the Department of Environmental ~~Control~~ Quality.

Sec. 4. That section 2-4215, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4215. In exercising any powers granted by ~~sections 2-4201 to 2-4246~~ the Conservation Corporation Act, the corporation shall coordinate its activities with the land and water resources policies, programs, and planning efforts of the state, particularly the Department of Environmental ~~Control~~ Quality and the Nebraska Natural Resources Commission and with the several natural resources districts throughout the state.

Sec. 5. That section 2-4604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4604. (1) The director shall, in cooperation with the commission, the Department of Environmental ~~Control~~ Quality, and other appropriate state and federal agencies, develop and coordinate a comprehensive state erosion and sediment control program designed to reduce soil erosion in this state to tolerable levels. The program, which

shall be reasonable and attainable, shall include:

- (a) The soil-loss limits for the various types of soils in the state;
- (b) State goals and a state strategy for reducing soil losses on all lands in the state to an amount no more than the applicable soil-loss limit;
- (c) Guidelines for establishing priorities for implementation of the program at the state and local levels;
- (d) Types of assistance to be provided by the state to districts, cities, and counties in the implementation of the state and local erosion and sediment control programs; and
- (e) Such other elements as the director deems appropriate in accordance with the objectives of the Erosion and Sediment Control Act, including any recommendations for further legislative or administrative action.

(2) The state erosion and sediment control program shall be subject to the approval of the commission. It shall be presented to the Governor and the Legislature no later than January 1, 1987. Before approving the final program, the director and the commission shall conduct at least four public hearings or meetings to receive information from interested persons in different parts of the state.

(3) The state erosion and sediment control program may be revised by the director and the commission at any time, except that such revisions shall be made according to the procedures required for approval of the original program.

Sec. 6. That section 46-2,109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-2,109. Each natural resources district and the Game and Parks Commission shall conduct studies to identify specific stream segments which the district or commission considers to have a critical need for instream flows. Such studies shall quantify the instream flow needs in the identified stream segments. Any district or the Game and Parks Commission may request the assistance of the Conservation and Survey Division of the University of Nebraska, the Nebraska Natural Resources Commission, the Game and Parks Commission, the Department of Environmental ~~Control~~ Quality, the Department of Water Resources, or any other state agency in order to comply with this section.

Sec. 7. That section 46-656, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-656. The Legislature finds that ground water is one of the most valuable natural resources in the state and that an adequate supply of ground water is essential to the general welfare of the citizens of this state and to the present and future development of agriculture in the state. The Legislature recognizes its duty to define broad policy goals concerning the utilization and management of ground water and to ensure local implementation of those goals. Every landowner shall be entitled to a reasonable and beneficial use of the ground water underlying his or her land subject to the provisions of Chapter 46, article 6, and the correlative

rights of other landowners when the ground water supply is insufficient for all users. The Legislature determines that the goal shall be to extend ground water reservoir life to the greatest extent practicable consistent with beneficial use of the ground water and best management practices.

The Legislature further recognizes and declares that the management, protection, and conservation of ground water and the beneficial use thereof are essential to the economic prosperity and future well-being of the state and that the public interest demands procedures for the implementation of management practices to conserve and protect ground water supplies and to prevent the contamination or inefficient or improper use thereof. The Legislature recognizes the need to provide for orderly management systems in areas where management of ground water is necessary to achieve locally determined ground water reservoir life goals and where available data, evidence, or other information indicates that present or potential ground water conditions, including subirrigation conditions, require the designation of areas with special regulation of development and use.

Nothing in the Nebraska Ground Water Management and Protection Act relating to the contamination of ground water is intended to limit the powers of the Department of Environmental Control Quality provided in Chapter 81, article 15.

Sec. 8. That section 46-657, Revised Statutes Supplement, 1992, be amended to read as follows:

46-657. ~~As used in~~ For purposes of the Nebraska Ground Water Management and Protection Act and ~~in~~ sections 46-601 to 46-613.01 and 46-636 to 46-655, unless the context otherwise requires:

(1) Person shall mean a natural person, partnership, association, corporation, municipality, irrigation district, or agency or political subdivision of the state;

(2) Ground water shall mean that water which occurs in or moves, seeps, filters, or percolates through ground under the surface of the land;

(3) Well shall mean any artificial opening or excavation in the ground through which ground water flows under natural pressure or is artificially withdrawn. A series of wells developed and pumped as a single unit shall be considered as one well. For purposes of the act, well shall not mean any artificial opening or excavation in which a pump of less than one hundred gallons per minute capacity is to be installed and which is to be used solely for supply of ground water for domestic purposes;

(4) Construction of a well shall mean boring, drilling, jetting, digging, or excavating and installing casing, pumps, and other devices for withdrawing or facilitating the withdrawal of ground water;

(5) Contamination or contamination of ground water shall mean nitrate nitrogen or other material which enters the ground water due to action of any person and causes degradation of the quality of ground water sufficient to make such ground water unsuitable for present or reasonably foreseeable beneficial uses;

(6) District shall mean a natural resources district operating

pursuant to Chapter 2, article 32;

(7) Director shall mean the Director of Water Resources;

(8) Illegal well shall mean (a) any well operated or constructed without or in violation of a permit required by the act, (b) any well not in compliance with rules and regulations adopted and promulgated pursuant to the act, (c) any well not properly registered in accordance with sections 46-602 to 46-604, or (d) any well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws;

(9) Control area shall mean any area so designated by the director following a public hearing initiated and conducted pursuant to section 46-658;

(10) To commence construction of a well shall mean the beginning of the boring, drilling, jetting, digging, or excavating of the actual well from which ground water is to be withdrawn;

(11) Well driller shall mean any person who constructs, reconstructs, alters, or repairs a well. The term shall not include a person who performs labor or services for a well driller at his or her direction and under his or her supervision;

(12) Management area shall mean any area so designated by a district pursuant to sections 46-673.01 to 46-673.06;

(13) Ground water reservoir life goal shall mean the finite or infinite period of time which a district establishes as its goal for maintenance of the supply and quality of water in a ground water reservoir at the time a ground water management plan is adopted;

(14) Board shall mean the board of directors of a district;

(15) Irrigated acre shall mean any acre that is certified as such pursuant to rules and regulations of the district and that is actually capable of being supplied water through irrigation works, mechanisms, or facilities existing at the time of the allocation;

(16) Acre-inch shall mean the amount of water necessary to cover an acre of land one inch deep;

(17) Subirrigation or subirrigated land shall mean the natural occurrence of a ground water table within the root zone of agricultural vegetation, not exceeding ten feet below the surface of the ground;

(18) Best management practices shall mean schedules of activities, maintenance procedures, and other management practices utilized to prevent or reduce present and future contamination of ground water which may include irrigation scheduling, proper timing of fertilizer and pesticide application, and other fertilizer and pesticide management programs;

(19) Special ground water quality protection area shall mean any area designated as such by the Director of Environmental ~~Control~~ Quality following a public hearing, with boundaries approved by the Director of Environmental ~~Control~~ Quality, in which contamination of ground water is occurring;

(20) Point source shall mean any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, other floating craft, or other conveyance, over which the Department of Environmental ~~Control~~ Quality has regulatory authority and from which a substance which can cause or contribute to contamination of ground water is or may be discharged;

(21) Allocation shall mean the allotment of a specified total number of acre-inches of irrigation water per irrigated acre per year or an average number of acre-inches of irrigation water per irrigated acre over any reasonable period of time not to exceed five years; and

(22) Rotation shall mean a recurring series of use and nonuse of irrigation wells on an hourly, daily, weekly, or monthly basis or of irrigated acres on an annual basis.

Sec. 9. That section 46-658, Revised Statutes Supplement, 1992, be amended to read as follows:

46-658. (1) An area may be designated a control area by the director following a hearing initiated in accordance with subsection (3) of this section if it is determined, following evaluation of relevant hydrologic and water quality data, history of developments, and projection of effects of current and new development, that development and utilization of the ground water supply has caused or is likely to cause within the reasonably foreseeable future the existence of either of the following conditions:

(a) An inadequate ground water supply to meet present or reasonably foreseeable needs for beneficial use of such water supply; or

(b) Dewatering of an aquifer, resulting in a deterioration of the quality of such ground water sufficient to make such ground water unsuitable for the present purposes for which it is being utilized.

(2) When determining whether to designate a control area because of the existence of any of the conditions listed in subsection (1) of this section, the director's considerations shall include, but not be limited to, whether conflicts between ground water users are occurring or may be reasonably anticipated or whether ground water users are experiencing or will experience within the foreseeable future substantial economic hardships as a direct result of current or anticipated ground water development or utilization.

(3) A hearing to designate a control area may be initiated by a district whenever it has information sufficient in the opinion of the board to require that any portion of such district should be designated as a control area. The board shall report such information to the director with a request that a hearing be held to determine if a control area should be established. The request shall be accompanied by a general description of the area proposed for inclusion in such control area.

(4)(a) Within thirty days after a hearing has been initiated pursuant to subsection (3) of this section, the director shall consult with the district and fix a time and place for a public hearing to consider the information proposed and to hear any other evidence. The hearing shall

be held within one hundred twenty days after it has been initiated, shall be open to the public, and shall be located within or in reasonable proximity to the area proposed for designation as a control area. If, from information submitted by the district or otherwise available to the director, the director has reason to believe that area other than that identified by the district should be considered for inclusion in any control area which would be established as a result of such request, he or she shall so notify the district or districts whose boundaries encompass such additional area. Notice of the hearing shall be published at the expense of the district or districts in such newspapers as are necessary to provide for general circulation within the geographic area at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The notice shall provide a general description of all area which will be considered by the director for inclusion in the control area.

(b) At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Nebraska Natural Resources Commission, and the Department of Environmental ~~Control~~ Quality shall offer as evidence any information in their possession which they deem relevant to the purposes of the hearing. After the hearing and after any studies or investigations conducted by or on behalf of the director as he or she deems necessary, the director shall determine whether a control area shall be designated. If the director determines that no control area shall be established, he or she shall issue an order declaring that no control area shall be designated.

(c) If the director determines that a control area shall be established, he or she shall consult with such relevant state agencies named in subdivision (b) of this subsection and with the district or districts affected and determine the boundaries of the control area, taking into account the considerations enumerated in subsection (1) of this section, the effect on political subdivisions, and the socioeconomic and administrative factors directly affecting the ability to implement and carry out local ground water management, control, and protection.

(d) If the director determines that contiguous area within the jurisdictional limits of one or more districts other than the district or districts which initiated the hearing is subject to the conditions identified in this section and therefor appropriate for inclusion in such control area, he or she shall so notify such other district or districts prior to issuance of the order designating the control area.

(e) When the boundaries of a control area have been determined, the director shall issue an order designating the area as a control area. Such an order shall include a geographic and a stratigraphic definition of the control area. Notice of the order shall be provided in the same manner as that provided for the hearing.

(5) Modification in control area boundaries or dissolution of a control area may be accomplished utilizing the procedure established in this section for the initial designation of such areas as control areas, but hearings for designation, modification, or dissolution of such control area

may not be initiated more often than once a year.

Sec. 10. That section 46-663, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-663. Regardless of whether or not any portion of a district has been designated as a control, management, or special ground water quality protection area, in order to administer and enforce the Nebraska Ground Water Management and Protection Act and to effectuate the policy of the state to conserve ground water resources, a district may:

(1) Adopt and promulgate rules and regulations necessary to discharge the administrative duties assigned in the act;

(2) Require such reports from ground water users as may be necessary;

(3) Conduct investigations and cooperate or contract with agencies of the United States, agencies or political subdivisions of this state, public or private corporations, or any association or individual on any matter relevant to the administration of the act;

(4) Report to and consult with the Department of Environmental ~~Control~~ Quality on all matters concerning the entry of contamination or contaminating materials into ground water supplies; and

(5) Issue cease and desist orders, following ten days' notice to the person affected stating the contemplated action and in general the grounds for the action and following reasonable opportunity to be heard, to enforce any of the provisions of the act or of orders or permits issued pursuant to ~~it~~ the act, to initiate suits to enforce the provisions of orders issued pursuant to the act, and to restrain the construction of illegal wells or the withdrawal or use of water from such wells.

Sec. 11. That section 46-665, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-665. (1) Following the designation of any area as a control area and at such other times as the district desires the adoption, amendment, or repeal of any control authorized by section 46-666, the district shall hold a public meeting to determine the type of controls to be imposed within that control area.

(2) Prior to the adoption, amendment, or repeal of any authorized control, the district shall hold one or more public hearings to consider testimony regarding such adoption, amendment, or repeal. The text of the control proposed for adoption or repeal or of the amendment shall be made available to the public at least thirty days prior to any such hearing. The hearings shall be held within or in reasonable proximity to the control area. Public notice of the time and place of all such hearings shall be given in the manner provided in section 46-658.

(3) At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Nebraska Natural Resources Commission, and the Department of Environmental ~~Control~~ Quality shall offer as evidence any information in their possession which they deem relevant to the purposes of the hearing.

Sec. 12. That section 46-673.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-673.03. The director shall review any ground water management plan submitted by a district to ensure that the best available studies, data, and information were utilized and considered and that such plan is supported by and is a reasonable application of such information. If the primary purpose of the proposed management area is protection of water quality, the director shall consult with the Department of Environmental Control Quality regarding approval or denial of the management plan. The director shall consult with the Conservation and Survey Division of the University of Nebraska, the Nebraska Natural Resources Commission, and such other state or federal agencies the director shall deem necessary when reviewing plans. Within ninety days after receipt of a plan, the director shall transmit his or her findings, conclusions, and reasons for approval or disapproval to the district submitting the plan.

Sec. 13. That section 46-673.05, Revised Statutes Supplement, 1992, be amended to read as follows:

46-673.05. Prior to proceeding toward establishing a management area, a management plan shall have been approved by the director or the district shall have completed the requirements of section 46-673.04. In order to establish a management area, the district shall fix a time and place for a public hearing to consider the management plan information supplied by the director and to hear any other evidence. The hearing shall be located within; or in reasonable proximity to; the area proposed for designation as a management area. Notice of the hearing shall be given in accordance with section 46-658, shall provide a general description of the contents of the plan and of the area which will be considered for inclusion in the management area, and shall provide the text of the control proposed for adoption by the district. All interested persons shall be allowed to appear and present testimony. The hearing shall include testimony of a representative of the Department of Water Resources and, if the primary purpose of the proposed management area is protection of water quality, of the Department of Environmental Control Quality and shall include the results of any studies or investigations conducted by the district.

Sec. 14. That section 46-674.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.02. The Legislature finds that:

- (1) The levels of nitrate nitrogen and other contaminants in ground water in certain areas of the state are increasing;
- (2) Long-term solutions should be implemented and efforts should be made to prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards;
- (3) Agriculture has been very productive and should continue to be an important industry to the State of Nebraska;
- (4) Natural resources districts have the legal authority to

regulate certain activities and, as local entities, are the preferred regulators of activities which may contribute to ground water contamination in both urban and rural areas;

(5) The Department of Environmental Control Quality should be given authority to regulate sources of contamination when necessary to prevent serious deterioration of ground water quality;

(6) The powers given to districts and the Department of Environmental Control Quality should be used to stabilize, reduce, and prevent the increase or spread of ground water contamination; and

(7) There is a need to provide for the orderly management of ground water quality in areas where available data, evidence, and other information indicate that present or potential ground water conditions require the designation of such areas as special ground water quality protection areas.

Sec. 15. That section 46-674.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.03. Each state agency and political subdivision shall promptly report to the Department of Environmental Control Quality any information which indicates that contamination is occurring.

Sec. 16. That section 46-674.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.04. If, as a result of information provided pursuant to section 46-674.03 or studies conducted by or otherwise available to the Department of Environmental Control Quality and following preliminary investigation, the Director of Environmental Control Quality has reason to believe that contamination of ground water is occurring or likely to occur in an area of the state in the reasonably foreseeable future, the department shall, in cooperation with any appropriate state agency and district, conduct a study to determine the source or sources of the contamination and the area affected by such contamination and shall issue a written report within one year of the initiation of the study. The department shall consider the relevant water quality portions of the management plan developed by the district pursuant to section 46-673.01 during the study required in this section.

Sec. 17. That section 46-674.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.05. If the Director of Environmental Control Quality determines from the study conducted pursuant to section 46-674.04 that one or more sources of contamination are point sources, he or she shall expeditiously use the procedures authorized in the Environmental Protection Act to stabilize or reduce the level and prevent the increase or spread of such contamination.

Sec. 18. That section 46-674.06, Revised Statutes Supplement, 1992, be amended to read as follows:

46-674.06. If the Director of Environmental Control Quality determines from the study conducted pursuant to section 46-674.04 that one or more sources of contamination are not point sources and if a management area, the primary purpose of which is

protection of water quality, has been established which includes the affected area, the ~~director~~ Director of Environmental Quality shall consider whether to require the district which established the management area to adopt an action plan as provided in sections 46-674.07 to 46-674.11.

If the ~~director~~ Director of Environmental Quality determines that one or more of the sources are not point sources and if such a management area has not been established, he or she shall, within thirty days after completion of the report required by section 46-674.04, consult with the district within whose boundaries the area affected by such contamination is located and fix a time and place for a public hearing to consider the report, hear any other evidence, and secure testimony on whether a special ground water quality protection area should be designated. The hearing shall be held within one hundred twenty days after completion of the report, shall be open to the public, and shall be located within or in reasonable proximity to the area considered in the report. Notice of the hearing shall be published in such newspapers as are necessary to provide for general circulation within the geographic area at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The notice shall provide a general description of all areas which will be considered for inclusion in the special ground water quality protection area.

At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health, the Department of Water Resources, the Nebraska Natural Resources Commission, and the appropriate district shall offer as evidence any information in their possession which they deem relevant to the purpose of the hearing. After the hearing and after any studies or investigations conducted by or on behalf of the Director of Environmental ~~Control~~ Quality as he or she deems necessary, ~~he or she~~ the director shall determine whether a special ground water quality protection area shall be designated.

Sec. 19. That section 46-674.07, Revised Statutes Supplement, 1992, be amended to read as follows:

46-674.07. (1) When determining whether to designate a special ground water quality protection area or to require a district which has established a management area, the primary purpose of which is protection of water quality, to adopt an action plan for the affected area, the Director of Environmental ~~Control~~ Quality shall consider whether contamination of ground water has occurred or is likely to occur in the reasonably foreseeable future, whether ground water users, including, but not limited to, domestic, municipal, industrial, and agricultural users, are experiencing or will experience within the foreseeable future substantial economic hardships as a direct result of current or reasonably anticipated activities which cause or contribute to contamination of ground water, whether methods are available to stabilize or reduce the level of contamination, and administrative factors directly affecting the ability to implement and carry out regulatory activities.

(2) If the Director of Environmental Control Quality determines that no such area should be established, he or she shall issue an order declaring that no special ground water quality protection area shall be designated.

(3) If the Director of Environmental Control Quality determines that a special ground water quality protection area shall be established or that such a district shall be required to adopt ~~such~~ an action plan, he or she shall consult with relevant state agencies and with the district or districts affected and determine the boundaries of the area, taking into account the effect on political subdivisions and the socioeconomic and administrative factors directly affecting the ability to implement and carry out local ground water management, control, and protection. The report by the Director of Environmental Control Quality shall include the specific reasons for the creation of the ground water quality protection area or the requirement of such an action plan and a full disclosure of the possible causes.

(4) When the boundaries of an area have been determined, the Director of Environmental Control Quality shall issue an order designating the area as a special ground water quality protection area or requiring such an action plan. Such an order shall include a geographic and a stratigraphic definition of the area.

Sec. 20. That section 46-674.10, Revised Statutes Supplement, 1992, be amended to read as follows:

46-674.10. (1) In adopting or amending an action plan authorized by subsection (2) of this section, the district's considerations shall include, but not be limited to, whether it reasonably appears that such action will mitigate or eliminate the condition which led to designation of the special ground water quality protection area or the requirement of an action plan for a management area or will improve the administration of the area.

(2) The Director of Environmental Control Quality shall approve or deny the adoption or amendment of an action plan within one hundred twenty days after the date the plan is submitted by the district. He or she may hold a public hearing to consider testimony regarding the action plan prior to the issuance of an order approving or disapproving the adoption or amendment. In approving the adoption or amendment of the plan in such an area, considerations shall include, but not be limited to, those enumerated in subsection (1) of this section.

(3) If because of varying ground water uses or varying climatic, hydrologic, geologic, or soil conditions existing within a special ground water quality protection area or management area the uniform application throughout such area of one or more protective measures would fail to carry out the intent of the Nebraska Ground Water Management and Protection Act in a reasonably effective and equitable manner, the measures adopted by the district pursuant to subsection (1) of this section may vary. Any differences in such protective measures shall recognize and be directed toward such varying ground water uses or conditions. All protective measures for different categories of ground

water use shall be uniform for all portions of the area which have substantially similar climatic, hydrologic, geologic, and soil conditions.

(4) If the ~~Director of Environmental Control~~ director denies approval of an action plan by the district, the order shall list the reason the action plan was not approved. A district may submit a revised action plan within sixty days to the ~~Director of Environmental Control~~ director for approval.

Sec. 21. That section 46-674.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.11. ~~The district following~~ Following approval of the action plan by the Director of Environmental ~~Control~~ Quality, the ~~district~~ shall cause a copy of each protective measure adopted pursuant to section 46-674.10 to be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved, the last publication of which shall be not less than ten days prior to the date when such protective measure becomes effective.

Sec. 22. That section 46-674.12, Revised Statutes Supplement, 1992, be amended to read as follows:

46-674.12. (1) The power to specify protective measures shall vest in the Director of Environmental ~~Control~~ Quality if (a) at the end of one hundred eighty days following the designation of a special ground water quality protection area or the requiring of an action plan for a management area pursuant to section 46-674.07, a district encompassed in whole or in part by a special ground water quality protection area or such a management area has not completed an action plan, (b) a district does not submit a revised action plan within sixty days after denial of its original action plan, or (c) the district submits a revised action plan which is not approved by the ~~Director of Environmental Control~~ director.

(2) If the power to specify protective measures in a special ground water quality protection area or such a management area is vested in the Director of Environmental ~~Control~~ Quality, he or she shall within ninety days adopt and promulgate by rule and regulation such measures as he or she deems necessary for carrying out the intent of the Nebraska Ground Water Management and Protection Act. He or she shall conduct one or more public hearings prior to the adoption of protective measures. Notice of any such additional hearings shall be given in the manner provided in section 46-674.06. The enforcement of protective measures adopted pursuant to this section shall be the responsibility of the Department of Environmental ~~Control~~ Quality.

Sec. 23. That section 46-674.13, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.13. The protective measures in the action plan approved by the Director of Environmental ~~Control~~ Quality pursuant to section 46-674.10 shall be exercised by the district for the period of time necessary to stabilize or reduce the level of contamination and prevent the increase or spread of ground water contamination. An action plan may be amended by the same method utilized in the adoption of the action plan.

Sec. 24. That section 46-674.14, Revised Statutes Supplement, 1992, be amended to read as follows:

46-674.14. A district may petition the Director of Environmental Control Quality to remove the designation of the area as a special ground water quality protection area or the requirement of an action plan for a management area. If the ~~Director of Environmental Control~~ director determines that the level of contamination in a special ground water quality protection area or such a management area has stabilized at or been reduced to a level which is not detrimental to beneficial uses of ground water, he or she may remove the designation.

Sec. 25. That section 46-674.15, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.15. Any person aggrieved by any order of the district or the Director of Environmental Control Quality issued pursuant to sections 46-674.02 to 46-674.20 may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 26. That section 46-674.16, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-674.16. The Environmental Control Quality Council shall adopt and promulgate, in accordance with the Administrative Procedure Act, such rules and regulations as are necessary to the discharge of duties under sections 46-674.02 to 46-674.20.

Sec. 27. That section 46-674.18, Revised Statutes Supplement, 1992, be amended to read as follows:

46-674.18. Each district in which a special ground water quality protection area has been designated or an action plan for a management area has been required pursuant to sections 46-674.02 to 46-674.20 shall, in cooperation with the Department of Environmental Control Quality, establish a program to monitor the quality of the ground water in the area and shall if appropriate provide each landowner or operator of an irrigation system with current information available with respect to fertilizer and chemical usage for the specific soil types present and cropping patterns used.

Sec. 28. That section 46-1102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1102. The Legislature finds that the use of chemigation throughout the state is increasing and that, although chemigation provides a viable alternative to other means of chemical application, if an irrigation distribution system is not properly equipped or if a chemical is not used with proper precautions, there exists a potential to contaminate the water.

The Legislature also finds that complete information as to the occurrences and use of chemigation in this state is essential to the development of a sound state water management policy.

For these reasons, the Legislature deems it necessary to provide the natural resources districts and the Department of Environmental Control Quality with the authority to document, monitor, regulate, and enforce chemigation practices in Nebraska.

Sec. 29. That section 46-1107, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

46-1107. Council shall mean the Environmental ~~Control~~ Quality Council.

Sec. 30. That section 46-1108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1108. Department shall mean the Department of Environmental ~~Control~~ Quality.

Sec. 31. That section 46-1109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1109. Director shall mean the Director of Environmental ~~Control~~ Quality.

Sec. 32. That section 46-1217, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1217. There is hereby created a Water Well Standards and Contractors' Licensing Board. The board shall be composed of nine members, five of whom shall be appointed by the Governor as follows: (1) A water well contractor representing irrigation well contractors, (2) a water well contractor representing domestic well contractors, (3) a water well contractor representing municipal and industrial well contractors, (4) a pump installation contractor, and (5) a manufacturer or supplier of water well or pumping equipment. The director or his or her designated representative of the Department of Health, the director or his or her designated representative of the Department of Environmental ~~Control~~ Quality, the director or his or her designated representative of the Department of Water Resources, and the director or his or her designated representative of the Conservation and Survey Division of the University of Nebraska shall also serve as members of the board. Each member shall be a resident of the state. Each appointed member of the board shall have had at least five years of experience in the business of his or her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the board. Each member representing a category subject to licensing under the Water Well Standards and Contractors' Licensing Act, with the exception of members initially appointed, shall be licensed by the department pursuant to such act. In making appointments, the Governor may consider recommendations made by the trade associations of each category.

Sec. 33. That section 46-1227, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1227. The department and the Environmental ~~Control~~ Quality Council, with the advice and consent of the board, shall jointly adopt and promulgate uniform rules and regulations, in accordance with the rules and regulations adopted and promulgated pursuant to sections 46-602 and 81-1505, for the establishment of standards for the (1) construction of water wells, (2) installation of pumps and pumping equipment, and (3) plugging of abandoned wells. Such rules, regulations, and standards may recognize differing hydrologic and geologic conditions, may recognize differing uses of any developed supplies, and shall be designed to promote efficient methods of operation and prevent water

wells from becoming a source of contamination to the aquifer. Such standards shall be applicable whether such activities are carried out by a water well contractor, a pump installation contractor, a water well drilling supervisor, a pump installation supervisor, or any other person. Nothing in this section shall be construed to require that the department and the council jointly adopt, promulgate, or amend rules and regulations for programs in existence on October 1, 1986.

Sec. 34. That section 49-506, Revised Statutes Supplement, 1992, be amended to read as follows:

49-506. After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Aeronautics, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environmental ~~Control~~ Quality, the Department of Health, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Public Institutions, the Department of Revenue, the Department of Roads, the Department of Social Services, the Department of Veterans' Affairs, the Department of Water Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Natural Resources Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, and the Library of Congress; two copies to the Governor, the Secretary of State, the Nebraska Workers' Compensation Court, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; ~~sixteen copies to the Supreme Court and the Legislative Council~~; eight copies to the Clerk of the Legislature; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court, the

State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, and the Library of Congress; two copies to the Secretary of State, the Commission of Industrial Relations, and the Nebraska Workers' Compensation Court; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; ~~thirteen copies to the Supreme Court and the Legislative Council~~; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

Sec. 35. That section 60-2201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2201. ~~As used in~~ For purposes of sections 60-2201 to 60-2212, unless the context otherwise requires:

(1) Diesel-powered motor vehicle shall mean a self-propelled vehicle designed primarily for transporting persons or property on a public street or highway and which is powered by an internal combustion engine of the compression ignition type;

(2) Motor vehicle shall mean a self-propelled vehicle with a gross unloaded vehicle weight of ten thousand pounds or more, or any combination of vehicles of a type subject to registration, towed by such motor vehicle;

(3) Smoke shall mean the solid or liquid matter, except water, discharged from a motor vehicle engine which obscures the transmission of light;

(4) Smokemeter shall mean a full flow light-extinction smokemeter of a type approved by the Department of Environmental ~~Control~~ Quality and operating on the principles described in the federal standards;

(5) Opacity shall mean the degree to which a smoke plume emitted from a diesel-powered motor vehicle engine will block the passage of a beam of light expressed as a percentage;

(6) Smoke control system shall mean a system consisting of one or more devices and adjustments designed to control the discharge of smoke from diesel-powered motor vehicles;

(7) Administrator shall mean the Director of Environmental ~~Control of the State of Nebraska~~ Quality; and

(8) State enforcement officials shall mean officials of the Department of Environmental Quality, ~~Control~~; and

~~(9) This act shall mean sections 60-2201 to 60-2212.~~

Sec. 36. That section 60-2205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2205. (1) State and local enforcement officials shall have the authority to issue citations to suspected violators of ~~the provisions of~~ sections 60-2201 to 60-2212 on the basis of their visual evaluation of the smoke emitted from a diesel-powered motor vehicle. A

~~citation~~ , ~~and such citations~~ shall give the suspected violator a reasonable time to furnish evidence to the Department of Environmental ~~Control~~ Quality that such alleged violation has been corrected or else such suspected violator shall be subject to the penalties set out in section 60-2211. A ; ~~PROVIDED, that a~~ suspected violator may demand that the suspected vehicle be tested by an approved smokemeter prior to a trial on the alleged violation.

(2) Smokemeter tests shall be conducted (a) by or under the supervision of a person or testing facility authorized by the administrator to conduct such tests; and (b) by installing an approved smokemeter on the exhaust pipe and operating the suspected vehicle at engine revolutions per minute equivalent to the engine revolutions per minute at the time of the alleged violation.

(3) The results of smokemeter tests run in accordance with ~~the provisions of~~ sections 60-2201 to 60-2212 and after the alleged violation shall be admissible as evidence in legal proceedings.

Sec. 37. That section 66-1105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1105. Any person who desires to withdraw ground water within the State of Nebraska for geothermal resource development shall, prior to commencing construction of any wells, obtain from the Director of Water Resources a permit to authorize the withdrawal, transfer, and further use or reinjection of such ground water. The Department of Water Resources shall adopt and promulgate rules and regulations governing the issuance of such permits, consistent with sections 66-1101 to 66-1106 and with Chapter 46, article 6. Such rules and regulations shall provide for consultation with the Department of Environmental ~~Control~~ Quality pursuant to the issuance of such permits and shall be compatible with rules and regulations adopted and promulgated by the Department of Environmental ~~Control~~ Quality under the Environmental Protection Act. Any geothermal fluids produced incident to the development and production of geothermal resources shall be reinjected into the same geologic formation from which they were extracted; in substantially the same volume and substantially the same or higher quality as when extracted; unless the permit issued in accordance with this section authorizes further uses or processing other than those incident to reinjection.

Sec. 38. That section 66-1504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1504. Department shall mean the Department of Environmental ~~Control~~ Quality.

Sec. 39. That section 66-1518, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1518. (1) The Environmental ~~Control~~ Quality Council shall adopt and promulgate rules and regulations regarding the form and procedure for applications for payment or reimbursement from the fund, procedures for investigation of claims for payment or reimbursement, procedures for determining the amount and type of costs

that are eligible for payment or reimbursement from the fund, procedures for auditing persons who have received payments from the fund, and other provisions necessary to carry out the Petroleum Release Remedial Action Act.

(2) The department, in consultation with interested parties, shall report to the Legislature at the beginning of every third year during which the fund is in existence on the availability of private insurance to insure the damages for which payment may be made from the fund.

Sec. 40. That section 66-1522, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1522. (1) The Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue shall collect the fee imposed by subsection (1) of section 66-1521. Whenever the unobligated balance of the fund reaches five million dollars or more, the Department of Environmental ~~Control~~ Quality shall notify the division, at which time the division shall suspend the collection of the fee. If the unobligated balance of the fund falls below three million dollars, the department shall notify the division which shall again start the collection of the fee until the unobligated balance of the fund reaches five million dollars. If the actual cash balance of the fund as reported by the accounting division of the Department of Administrative Services falls below two million dollars, the Department of Environmental ~~Control~~ Quality shall notify the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue which shall start collection of an additional fee of three-tenths of one cent per gallon on motor vehicle fuel as defined in section 66-482 and an additional fee of one-tenth of one cent per gallon on petroleum other than such motor vehicle fuel until the actual cash balance of the fund as reported by the accounting division reaches four million dollars.

(2) Unobligated balance shall be the balance in the fund as of the twentieth day of any month less the estimated cost of the remedial action plans or third-party-claim payments which have been approved by the Department of Environmental ~~Control~~ Quality for the applications for reimbursement pending before the department. Such estimated cost shall be determined by the department.

(3) The effective date of the notification shall be the first day of the next month following receipt of such notification by the division if the notification is received thirty days prior to the first day of the next month. If the notification is not received thirty days prior to the first day of the next month, the effective date of such notification shall be the first day of the following month.

Sec. 41. That section 66-1529.02, Revised Statutes Supplement, 1992, be amended to read as follows:

66-1529.02. (1) The department may undertake remedial actions in response to a release first reported after July 17, 1983, with money available in the fund if:

- (a) The responsible person cannot be identified or located;
- (b) An identified responsible person cannot or will not comply with the remedial action requirements; or

(c) Immediate remedial action is necessary, as determined by the Director of Environmental ~~Control~~ Quality, to protect human health or the environment.

(2) The department may pay the costs of a third-party claim meeting the requirements of subdivision (2)(f) of section 66-1525 with money available in the fund if the responsible person cannot or will not pay the third-party claim.

(3) Reimbursement for any damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred shall be considered as part of the cost of remedial action involving the site where the release or suspected release occurred. The costs shall be reimbursed from money available in the fund. If such reimbursement is deemed inadequate by the party claiming the damages, the party's claim for damages caused by the department shall be filed as provided in section 76-705.

(4) All expenses paid from the fund under this section, court costs, and attorney's fees may be recovered in a civil action in the district court of Lancaster County. The action may be brought by the county attorney or Attorney General at the request of the director against the responsible person. All recovered expenses shall be deposited into the fund.

Sec. 42. That section 69-2011, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2011. On and after October 1, 1993, a person shall not sell or offer for sale at retail any disposable diaper which is constructed of a material which is not biodegradable or photodegradable if the Director of Environmental ~~Control~~ Quality determines that biodegradable or photodegradable disposable diapers are readily available at a comparable price and quality. The determination of quality shall include a study of the environmental impact and fate of such disposable diapers. The director shall issue his or her determination to the Legislature on or before October 1, 1992. For purposes of this section (1) readily available shall mean available for purchase in sufficient quantities to meet demand through usual retail channels throughout the state and (2) comparable price and quality shall mean at a cost not in excess of five percent above the average price for products of comparable quality which are not biodegradable or photodegradable.

Sec. 43. That section 77-27,150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,150. (1) An application for a refund of Nebraska sales and use taxes paid for any air or water pollution control facility may, upon completion of such facility, be filed with the Tax Commissioner by the owner of such facility in such manner and in such form as may be prescribed by the commissioner. The application for a refund shall contain: (a) Plans and specifications of such facility including all materials incorporated therein; (b) a descriptive list of all equipment acquired by the

applicant for the purpose of industrial or agricultural waste pollution control; (c) the proposed operating procedure for the facility; and (d) the acquisition cost of the facility for which a refund is claimed.

(2) Before applying for a refund of Nebraska sales and use taxes paid, the applicant shall receive approval of the Department of Environmental Control Quality. If each the department finds that a facility is designed and operated primarily for control, capture, abatement, or removal of industrial or agricultural waste from air or water, and is suitable, is reasonably adequate, and meets the standards and regulations adopted pursuant to the Environmental Protection Act, they the department shall so notify the owner of the facility in writing of their its approval. The Tax Commissioner shall offer an applicant a hearing upon request of such applicant.

Sec. 44. That section 77-27,151, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,151. If the Department of Environmental Control Quality finds that a facility is designed and operated primarily for control, capture, abatement, or removal of industrial or agricultural waste from air or water and is suitable, is reasonably adequate, and meets the intent and purposes of the Environmental Protection Act it shall so notify the Tax Commissioner who shall issue the refund. The Department of Environmental Control Quality shall also notify the Tax Commissioner of the extent of commercial or productive value derived from any materials captured or recovered by the facility.

Sec. 45. That section 77-27,152, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,152. (1) Notice of the commissioner's refusal to issue a refund shall be sent by certified mail to the applicant.

(+) (2) The Tax Commissioner, on after giving notice by certified mail to the applicant and giving an opportunity for a hearing, shall on his or her own initiative or on complaint of the Department of Environmental Control Quality modify or revoke the refund whenever any of the following appears: (a) The refund was obtained by fraud or misrepresentation; (b) the applicant has failed substantially to operate the facility for the purpose and degree of control specified in the application or an amended application; or (c) the facility covered by the refund is no longer used for the primary purpose of pollution control.

(2) (3) On the mailing by certified mail to the refund applicant of notice of the action of the Tax Commissioner modifying or revoking the refund, the refund shall cease to be in force; or shall remain in force only as modified. When a refund is revoked because a refund was obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by the Nebraska Revenue Act of 1967. No statute of limitations shall operate in the event of fraud or misrepresentation.

Sec. 46. That section 77-27,154, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,154. The Tax Commissioner shall adopt and promulgate rules and regulations necessary for the administration of the ~~provisions of sections 77-27,149 to 77-27,155~~ Air and Water Pollution Control Tax Refund Act. Such rules and regulations shall not abridge the authority of the Department of Environmental ~~Control~~ Quality to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the ~~provisions of sections 77-27,149 to 77-27,155~~ act.

Sec. 47. That section 81-1504.01, Revised Statutes Supplement, 1992, be amended to read as follows:

81-1504.01. The Department of Environmental ~~Control~~ Quality shall provide the following information to the Clerk of the Legislature by December 1 of each year:

(1) A report by type of service or aid provided by the use and distribution of federal funds received by the department. The report shall also include user fees, permit fees, license fees, and application fees authorized by the Environmental Protection Agency as follows:

(a) Actual expenditure of each grant or authorized fees for the most recently completed state fiscal year, including state matching funds;

(b) Current budget and planned use and distribution of each grant and authorized fees for the current state fiscal year, including state matching funds;

(c) A summary of the projected funding level of each grant and authorized fees and the impact of federal mandates and regulations upon the future use of each grant and authorized fees; and

(d) Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(2) A summary of regulations of the federal Environmental Protection Agency which the department is required to implement and which do not include federal funding assistance and the possible financial impact to the state and political subdivisions;

(3) A report by type of service or aid provided by the use and distribution of state general and cash funds, including user fees, permit fees, license fees, and application fees, to carry out activities that are not funded by federal grants as follows:

(a) Actual expenditure of state funds, by agency sections, for the most recently completed state fiscal year, including a breakdown of expenditures by personal services, operations, travel, capital outlay, and consulting and contractual services;

(b) Current budget and planned use and distribution of state funds, by agency sections, for the current state fiscal year, including a breakdown of expenditures ~~by~~ for personal services, operations, travel, capital outlay, and consulting and contractual services;

(c) A summary of projected program funding needs based upon the statutory requirements and public demand for services and the department's assessment of anticipated needs statewide; and

(d) Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(4) A report regarding staff turnover by job class and the department's assessment of its ability to hire and retain qualified staff considering the state's personnel pay plan; and

(5) A report listing the method used by each new or existing licensee, permittee, or other person who is required by the department to establish proof of financial responsibility.

Sec. 48. That section 81-1505.01, Revised Statutes Supplement, 1992, be amended to read as follows:

81-1505.01. There is hereby created the Department of Environmental Quality Cash Fund which shall be used to pay the expenses of the department and of the Small Business Compliance Advisory Panel. The department shall remit all fees collected pursuant to subsection (9) of section 81-1505 and sections 81-1505.04 and 81-1521.09; to the State Treasurer for credit to the fund. Any fee collected pursuant to section 81-1521.09 shall be used to pay the expenses related to the notice of intent for which the fee was paid. Any fee collected pursuant to section 81-1505.04 shall be used solely to pay the reasonable direct and indirect costs required to develop and administer the air quality permit program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

~~Any money in the Department of Environmental Control Cash Fund on July 15, 1992, shall be transferred to the Department of Environmental Quality Cash Fund on such date.~~

Sec. 49. That section 81-1533, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1533. All funds appropriated to aid in defraying the state's share of ~~participation in Public Law 92-500, as amended by Public Law 95-217,~~ the federal Clean Water Act, 33 U.S.C. 466 ~~1251~~ et seq., shall be administered on a cash-flow basis utilizing General Funds appropriated to Agency No. 84 -- Department of Environmental ~~Control~~ Quality, Program No. 518 -- Wastewater Treatment Facilities, to meet payout requirements as they occur. The director is hereby authorized to make state allocations concurrent with any federal grant to political subdivisions for the construction of wastewater treatment facilities at the rate of one-half of the nonfederal eligible cost of the projects. Such state allocations shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds. The director shall submit to the Governor and the Clerk of the Legislature a semiannual report on January 1 and July 1 of each ~~fiscal~~ year containing information which shows the financial status of the program including a statement of the fund balance, an itemized list of all conditional grants made to political subdivisions including actual and estimated amounts and time of payouts, the necessary appropriations required to meet those grants, and any other information which will reflect

the progress and financial status of the program. Each member of the Legislature shall receive a copy of the report required by this section by making a request for it to the director. Such funds shall be annually apportioned among Nebraska communities based principally on need and in accordance with the procedures established through the state's continuing planning process pursuant to section 303(e) of the federal act under which federal participation is contingent.

Sec. 50. That section 81-1537, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1537. Department shall mean the Department of Environmental ~~Control~~ Quality.

Sec. 51. That section 81-1538, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1538. Council shall mean the Environmental ~~Control~~ Quality Council.

Sec. 52. That section 81-1540, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1540. Director shall mean the Director of Environmental ~~Control~~ Quality.

Sec. 53. That section 81-1561, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1561. The Tax Commissioner shall deduct and withhold from the litter fee collected a fee sufficient to reimburse himself or herself for the cost of collecting and administering the litter fee and shall deposit such collection fee in the Litter Fee Collection Fund which is hereby created. The Litter Fee Collection Fund shall be appropriated to the Department of Revenue. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1269~~ 72-1276. The Tax Commissioner shall remit the balance of the litter fee collections to the Department of Environmental ~~Control~~ Quality.

The department shall allocate and distribute funds in percentage amounts to be determined by the council on an annual basis, after a public hearing on a date to be determined by the council, from the fund for the following activities:

(1) Programs of public education, motivation, and participation aimed at creating an ethic conducive to the reduction of litter, establishing an attitude against littering and a desire for a clean environment, and securing greater awareness of and compliance with antilitter laws. Such programs shall include:

- (a) The distribution of informative materials to elementary and secondary schools;
- (b) The purchase and erection of roadside signs;
- (c) The organization and operation of cleanup drives conducted by local agencies and organizations using volunteer help;
- (d) Grants to state and local government units and agencies and private organizations for developing and conducting antilitter programs; and

(e) Any other public information method selected by the department, including the use of media;

(2) Cleanup of public highways, waterways, recreation lands, urban areas, and public places within the state, including, but not limited to:

(a) Grants to cities and counties for payment of personnel employed in the pickup of litter;

(b) Grants for programs aimed at increasing the use of youth and unemployed persons in seasonal and part-time litter pickup programs and to establish work release and other programs to carry out the purposes of ~~sections 81-1534 to 81-1566~~ the Nebraska Litter Reduction and Recycling Act;

(c) Grants to public and private agencies and persons to conduct surveys of amounts and composition of litter and rates of littering; and

(d) Grants to public and private agencies and persons for research and development in the fields of litter reduction, removal, and disposal, including the evaluation of behavioral science techniques in litter control and the development of new equipment, and to implement such research and development when appropriate; and

(3) New or improved community recycling and source separation programs, including, but not limited to:

(a) Expansion of existing and creation of new community recycling centers;

(b) Expansion of existing and creation of new source separation programs;

(c) Research and evaluation of markets for the materials and products recovered in source separation and recycling programs; and

(d) Providing advice and assistance on matters relating to recycling and source separation including information and consultation on available technology, operating procedures, organizational arrangements, markets for materials and products recovered in recycling and source separation, transportation alternatives, and publicity techniques.

Sec. 54. That section 81-1584, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1584. Council shall mean the Environmental ~~Control~~ Quality Council.

Sec. 55. That section 81-1586, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1586. Department shall mean the Department of Environmental ~~Control~~ Quality.

Sec. 56. That section 81-1587, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1587. Director shall mean the Director of Environmental ~~Control~~ Quality.

Sec. 57. That section 81-15,118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,118. The Legislature finds that the number of

leaking underground storage tanks throughout the state is increasing and that there exists a serious threat to the health and safety of citizens because substances contained in leaking storage tanks are often potential ground water contaminants and major fire and explosive hazards.

For the reasons stated in this section, the Legislature deems it necessary to provide a program of storage tank registration and inspection as a preventative measure and a comprehensive leak cleanup program as a responsive measure. Primary responsibility for the Petroleum Products and Hazardous Substances Storage and Handling Act shall be with the Department of Environmental Control Quality. However, preventative measures described in such act shall also be carried out by the State Fire Marshal. The State Fire Marshal's actions shall be pursuant to an interagency agreement with the ~~Department of Environmental Control department.~~

Sec. 58. That section 81-15,120, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,120. Any farm or residential tank or tank used for storing heating oil as defined in subdivisions (7)(a) and (7)(b) of section 81-15,119 shall be registered with the State Fire Marshal. The registration shall be accompanied by a one-time fee of five dollars and shall be valid until the State Fire Marshal is notified that a tank so registered has been permanently closed. Such registration shall specify the ownership of, location of, and substance stored in the tank to be registered. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Petroleum Products and Hazardous Substances Storage and Handling Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the Department of Environmental Control Quality to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 59. That section 81-15,123, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,123. The State Fire Marshal shall adopt and promulgate rules and regulations governing release, detection, prevention, and correction procedures applicable to all owners and operators as shall be necessary to protect human health, public safety, and the environment. Such rules and regulations may distinguish between types, classes, and ages of tanks. In making such distinctions, the State Fire Marshal shall consider, but not be limited to, location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry-recommended practices, national consensus codes, hydrogeology, depth to the ground water, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tanks, the technical capability of the owners and operators, and the compatibility

of the regulated substance and the materials of which the tank is fabricated. Before adoption, such rules and regulations shall be reviewed and approved by the Director of Environmental ~~Control~~ Quality who shall determine whether the proposed rules and regulations are adequate to protect the environment. Rules and regulations adopted and promulgated pursuant to this section shall include, but not be limited to:

(1) Proper procedures and specifications for the construction, design, installation, replacement, or repair of tanks;

(2) A permit and registration system for all tanks;

(3) A program to establish an inspection system for all tanks. Such program shall provide for periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal. A fee schedule may also be developed for the inspection of new tank and piping installations and tank closures in the manner prescribed in section 81-505.01. Such inspection fees shall be remitted by the State Fire Marshal to the State Treasurer who shall credit them to the Underground Storage Tank Fund. No fee shall be charged for the periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal;

(4) A monitoring system for all tanks which includes, but is not limited to, the following:

(a) An inventory-control procedure for any tank used to hold petroleum products or hazardous substances for resale;

(b) An inventory-control procedure for any tank used solely for consumptive onsite purposes and not for resale. Such control procedure shall determine the method of inventory measurement giving consideration to the economic burden created by the procedure. The frequency of inventory measurement for such category of tank shall include at least one measurement every thirty days;

(c) Provisions for the prompt reporting of any release of a regulated substance; and

(d) A procedure for the proper method of monitoring tanks;

(5) A procedure for notifying the State Fire Marshal of temporarily or permanently abandoned tanks;

(6) A procedure for removing or making safe any abandoned tanks, except that the State Fire Marshal may dispense with such procedure in special circumstances;

(7) Financial responsibility requirements, taking into account the financial responsibility requirements established pursuant to 42 U.S.C. 6991b(d);

(8) Requirements for maintaining a leak-detection system, an inventory-control system, and a tank-testing or comparable system or method designed to identify releases in a manner consistent with the protection of human health, public safety, and the environment; and

(9) Requirements for maintaining records of any monitoring or leak-detection system, inventory-control system, or tank-testing or comparable system.

Nothing in this section shall be construed to require a subcontractor working under the direction of a licensed installation or removal contractor to be licensed.

Sec. 60. That section 81-15,124, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,124. Any reported or suspected release of a regulated substance from any tank shall be investigated by the State Fire Marshal and the Department of Environmental ~~Control~~ Quality. In the event that the State Fire Marshal or the ~~Department of Environmental Control~~ department finds an adverse effect caused by a release of a regulated substance from a tank:

(1) The State Fire Marshal shall (a) determine the immediate danger presented by the release, (b) take all steps necessary to assure immediate public safety, and (c) assist the ~~Department of Environmental Control~~ department in determining the source of the release and taking all steps necessary to ensure that the release is halted;

(2) By order of the ~~Department of Environmental Control~~ department, the owner or operator of the tank causing the release shall, after securing the source of the release, develop a plan for remedial action to be approved by the ~~Department of Environmental Control~~ department; and

(3) The approved remedial action plan shall then be carried out by the owner or operator of the tank causing the release. All expenses incurred during the remedial action shall be paid by the owner or operator subject to reimbursement pursuant to the Petroleum Release Remedial Action Act.

If it is determined that the source of the release is unknown or that the owner or operator of the facility causing the release is unknown or unavailable, a remedial action plan shall be developed by or under the direction of the ~~Department of Environmental Control~~ department. Such remedial action plan shall be developed and carried out by the department with money from the Petroleum Products and Hazardous Substances Storage and Handling Fund if funds are available. If at a later date the owner or operator of the facility which caused the release is determined, he or she shall be responsible for remedial action costs incurred on his or her behalf subject to reimbursement pursuant to the Petroleum Release Remedial Action Act. Any money received from such person shall be deposited in the Petroleum Products and Hazardous Substances Storage and Handling Fund.

Sec. 61. That section 81-15,124.01, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,124.01. The Environmental ~~Control~~ Quality Council shall adopt and promulgate rules and regulations governing the plan for remedial action to be taken by owners and operators pursuant to section 81-15,124.

Sec. 62. That section 81-15,124.02, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,124.02. If necessary in the course of an investigation

or inspection or during the remedial action and if the owner of property or the owner's agent has specifically denied the Department of Environmental Control Quality access to the property for such purposes, the department may order the owner or owner's agent to grant access to property for the performance of reasonable steps, including drilling, to determine the source and extent of contamination or for remediation. Access shall be by the department or by a person conducting an investigation, inspection, or remedial action at the direction of the department. All actions taken on the property shall be performed in the least obtrusive manner possible to allow the investigation, inspection, or remedial action to proceed. Upon completion of any such actions, the property shall be restored as nearly as possible to its original condition.

Sec. 63. That section 81-15,125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,125. Any person violating the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders of the State Fire Marshal or the Department of Environmental Control Quality adopted or issued pursuant to such act shall be subject to a civil fine of not more than five thousand dollars for each offense and, in the case of a continuing violation, each day of violation shall constitute a separate offense. In assessing the amount of the fine, the court shall consider the size of the operation and the degree and extent of the pollution.

Sec. 64. That section 81-15,126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,126. The Department of Environmental Control Quality or the State Fire Marshal may apply to the district court of the county where the violation is occurring or about to occur for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders adopted and promulgated under the act. The court shall have jurisdiction to grant relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

Sec. 65. That section 81-15,127, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,127. (1) ~~Beginning January 31, 1987, any~~ Any person who deposits regulated substances in a tank shall reasonably notify the owner or operator of such tank of the owner's or operator's registration requirements pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act.

(2) The Department of Environmental Control Quality shall design and make available a printed notice of registration for owners of tanks to any person who deposits regulated substances in a tank.

Sec. 66. That section 81-15,129, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,129. As used in the Wastewater Treatment Operator Certification Act, unless the context otherwise requires:

(1) Certificate shall mean a certificate of competency issued by the director or his or her duly authorized representative certifying that the operator has met the requirements for the specified operator classification of the certification program;

(2) Council shall mean the Environmental ~~Control~~ Quality Council;

(3) Department shall mean the Department of Environmental ~~Control~~ Quality;

(4) Director shall mean the Director of Environmental ~~Control~~ Quality;

(5) Nationally recognized association of certification authorities shall mean an organization or organizations selected by the director which (a) serve as an information center for certification activities, (b) recommend minimum standards and guidelines for classification of wastewater treatment facilities and certification of operators, (c) facilitate reciprocity between state programs, (d) assist authorities in establishing new certification programs and updating existing ones, and (e) provide testing services;

(6) Operator shall mean any person who regularly makes recommendations or is responsible for process control decisions at a wastewater treatment facility. Operator shall not include a person whose duties are limited solely to laboratory testing or maintenance or who exercises general or indirect supervision only;

(7) Voluntarily certified operator shall mean an operator who holds a certificate of competency described in section 81-15,133; and

(8) Wastewater treatment facility shall mean the structures, equipment, and processes required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludge.

Sec. 67. That section 81-15,149, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,149. As used in the Wastewater Treatment Facilities Construction Assistance Act, unless the context otherwise requires:

(1) Clean Water Act shall mean ~~Public Law 92-500, as amended by Public Law 98-396 and Public Law 100-4~~ the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(2) Construction shall mean any of the following: Preliminary planning to determine the feasibility of wastewater treatment works; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of wastewater treatment works; or the inspection or supervision of any of the foregoing items;

(3) Council shall mean the Environmental ~~Control~~ Quality Council;

(4) Department shall mean the Department of

Environmental Control Quality;

(5) Fund shall mean the Wastewater Treatment Facilities Construction Loan Fund;

(6) Municipality shall mean any city, town, village, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes;

(7) Operate and maintain shall mean all necessary activities including the normal replacement of equipment or appurtenances to assure the dependable and economical function of a wastewater treatment works in accordance with its intended purpose; and

(8) Wastewater treatment works shall mean the structures, equipment, and processes required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludges.

Sec. 68. That section 81-15,151, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,151. (1) ~~There is hereby created in the state treasury a fund to be known as the~~ The Wastewater Treatment Facilities Construction Loan Fund is hereby created. The fund shall be held as a trust fund for the purposes and uses described in the Wastewater Treatment Facilities Construction Assistance Act.

The fund shall consist of federal capitalization grants, state matching appropriations, repayments of principal and interest on loans, and other money designated for the fund. The Director of Environmental Control Quality may make loans from the fund pursuant to the act and may use up to four percent of all federal capitalization grant awards to the fund for the reasonable cost of administering the fund and conducting activities under Title VI of the Clean Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to sections 72-1237 to 72-1276, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Clean Water Act, as amended, and the regulations adopted and promulgated pursuant to such act, to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

(2) There is hereby created the Construction Administration Fund. Any funds available for administering loans or fees collected pursuant to the Wastewater Treatment Facilities Construction Assistance

Act shall be deposited in such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the ~~Construction Administration Fund~~ fund available for investment pursuant to sections 72-1237 to 72-1276. Investment earnings ~~on the Construction Administration Fund~~ shall be credited to the ~~Construction Administration Fund~~ fund.

Sec. 69. That section 81-15,153, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,153. The department shall have the following powers and duties:

(1) The power to establish a program to make loans to municipalities, individually or jointly, for construction or modification of publicly owned wastewater treatment works in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power, if so authorized by the council pursuant to section 81-15,152, to execute and deliver documents obligating the Wastewater Treatment Facilities Construction Loan Fund and the assets thereof to the extent permitted by section 81-15,151 to repay, with interest, loans to or deposits into the fund and to execute and deliver documents pledging to the extent permitted by section 81-15,151 all or part of the fund and its assets to secure, directly or indirectly, the loans or deposits;

(3) The duty to prepare an annual report for the Governor and the Legislature;

(4) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the fund;

(c) Accounting for disbursements made by the fund; and
(d) Balancing the fund at the beginning and end of the accounting period;

(5) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(6) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by the council;

(7) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to ~~section 602~~ of the Clean Water Act;

(8) The power to make state allocations concurrent with loans to municipalities with populations of eight hundred inhabitants or less which demonstrate serious financial hardships. The annual obligation

to the state shall not exceed three hundred thousand dollars. The department may authorize grants for up to one-half of the eligible project cost. Such state allocations shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds. All funds appropriated shall be administered on a cash-flow basis utilizing General Funds appropriated to Agency No. 84 -- Department of Environmental ~~Control~~ Quality, Program No. 523 - Wastewater Facilities Construction Assistance Program, to meet payment requirements as they occur. The department shall submit to the Governor and the Clerk of the Legislature a semiannual report on January 1 and July 1 of each ~~fiscal~~ year containing information which shows the financial status of the program, including a statement of the fund balance, an itemized list of all conditional grants made to municipalities, including actual and estimated amounts and the time of payouts, the necessary appropriations required to meet those grants, and any other information which will reflect the progress and financial status of the program. Each member of the Legislature shall receive a copy of the report required by this subdivision by making a request for it to the department; and

(9) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Wastewater Treatment Facilities Construction Assistance Act.

Sec. 70. That section 81-15,161, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,161. (1) Allocations from the Waste Reduction and Recycling Incentive Fund may be made as grants to a political subdivision when it is found that the reduction or recycling program or project proposed by the political subdivision appears to benefit the general public, to further the goals of waste reduction and recycling, and to be consistent with proper waste management practices. A political subdivision may file an application with the Department of Environmental ~~Control~~ Quality for a grant from the fund. Each application shall be filed in a manner and form prescribed by the department.

(2) An application for a grant from the fund shall: (a) Describe the nature and purpose of the proposed program or project; (b) set forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic, and financial feasibility data and information; and such estimated costs of construction or implementation as may be required by the department; (c) state whether money other than that for which the application is made will be used to help in meeting program or project costs and whether such money is available or has been sought for this purpose; (d) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands; (e) show that the applicant possesses all necessary authority to undertake or participate in the proposed program or project; and (f) demonstrate the probable environmental and ecological consequences that may result from such proposed program or project. Upon receipt of an application the Director of Environmental ~~Control~~ Quality shall evaluate and

investigate all aspects of the proposed program or project and the proposed schedule for the development and completion of such program or project, determine the eligibility of the program or project for funding, and make appropriate recommendations to the Environmental Control Quality Council. As a part of his or her investigation, the director shall consider whether the plan for development of the program or project is satisfactory. If the director determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the director shall return the application to the applicant and may make recommendations to the applicant which the director considers necessary to make the plan or the application satisfactory.

(3) The director shall within a reasonable time, not to exceed six months, after receipt of such application report to the council the results of his or her evaluation and investigation and shall recommend approval or rejection of funding for the program or project. The director shall indicate what form of allocation he or she deems appropriate. The council shall act in accordance with the director's recommendations unless action to the contrary is approved by each council member eligible to vote on the specific recommendation under consideration. No council member shall be eligible to participate in the action of the council concerning an application for funding to any entity in which such council member has any interest. If the council approves the recommendation of the director, the director shall allocate the funds. The grant shall be for a specific dollar amount of funds, and the funds shall be used only for the purpose specified in the grant. The director may set any terms for the administration of the funds as he or she deems necessary and any penalties to be imposed upon the recipient if it fails to comply with any requirements of the grant.

(4) It is the intent of the Legislature that allocations from the fund shall be made in an equitable manner which maximizes the benefits of the fund. When awarding grants, the council shall balance the needs of: (a) All geographic areas of the state; (b) all sizes and classes of communities; and (c) all manner and scale of programs and projects. The council shall also give consideration to eligible programs and projects which would specifically employ disabled or handicapped persons.

(5) The council shall adopt and promulgate rules and regulations to carry out this section and section 81-15,160.

Sec. 71. That section 81-15,166, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,166. The Department of Environmental Control Quality, with the advice and consent of the Environmental Control Quality Council, shall contract for the preparation of a comprehensive solid waste management plan. Such plan shall be contracted for and prepared on or before December 15, 1991.

It is the intent of the Legislature that in preparation of the plan the state consider the following hierarchy of criteria: (1) Volume reduction at the source; (2) recycling, reuse, and vegetative waste

composting; (3) incineration with energy resource recovery; (4) incineration for volume reduction; and (5) land disposal.

It is the intent of the Legislature that the plan be used as a guide to assist political subdivisions in the planning and implementation of their individual, joint, or regional solid waste management systems. The comprehensive solid waste management plan shall not supersede or impair plans, agreements, or contracts initiated by political subdivisions prior to December 15, 1991.

The Environmental ~~Control~~ Quality Council shall adopt and promulgate rules and regulations for solid waste management options which comply with Environmental Protection Agency rules and guidelines, including rules and guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste Amendments to Subtitle D of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

Sec. 72. That section 81-2602, Revised Statutes Supplement, 1992, be amended to read as follows:

81-2602. The Geographic Information System Steering Committee is hereby created and shall consist of fifteen members as follows:

(1) The director or designee of the Department of Administrative Services, the Department of Environmental ~~Control~~ Quality, the Conservation and Survey Division of the University of Nebraska, the Nebraska Natural Resources Commission, and the Governor's Policy Research Office;

(2) The Director-State Engineer or designee;

(3) The State Surveyor or designee;

(4) The Director of Research of the Legislature or designee;

(5) One representative of the natural resources districts nominated by the Nebraska Association of Resources Districts and appointed by the Governor;

(6) One representative of the public power districts appointed by the Governor;

(7) Two representatives of the counties nominated by the Nebraska Association of County Officials and appointed by the Governor;

(8) One representative of the municipalities nominated by the League of Nebraska Municipalities and appointed by the Governor; and

(9) Two members at large appointed by the Governor.

The appointed members shall serve for terms of four years, except that of the initial members appointed by the Governor, one of the representatives of the counties shall be appointed for one year and the other shall be appointed for three years, one of the members at large shall be appointed for one year and the other for three years, and the representative of the public power districts shall be appointed for two years. Their successors shall be appointed for four-year terms. Any vacancy on the committee shall be filled in the same manner as the original appointment, and the person selected to fill such vacancy shall

have the same qualifications as the member whose vacancy is being filled.

The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 73. That section 88-550, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

88-550. The Department of Environmental Control Quality and the commission shall, during the course of their regular inspections required by law, inspect warehouses for conditions which are or may be conducive to grain dust explosions. Such conditions shall include, but not be limited to, the presence at the warehouse of excessive grain dust, faulty equipment, or any other condition which could reasonably lead to an explosion if not corrected. The department and commission shall report any such condition to the State Fire Marshal as soon as practicable after each inspection.

Sec. 74. That original sections 2-1504.02, 2-15,100, 2-3241, 2-4215, 2-4604, 46-2,109, 46-656, 46-663, 46-665, 46-673.03, 46-674.02, 46-674.03, 46-674.04, 46-674.05, 46-674.11, 46-674.13, 46-674.15, 46-674.16, 46-1102, 46-1107, 46-1108, 46-1109, 46-1217, 46-1227, 60-2201, 60-2205, 66-1105, 66-1504, 69-2011, 77-27,150, 77-27,151, 77-27,152, 77-27,154, 81-1533, 81-1537, 81-1538, 81-1540, 81-1561, 81-1584, 81-1586, 81-1587, 81-15,118, 81-15,125, 81-15,126, 81-15,127, 81-15,129, and 88-550, Reissue Revised Statutes of Nebraska, 1943, and sections 46-657, 46-658, 46-673.05, 46-674.06, 46-674.07, 46-674.10, 46-674.12, 46-674.14, 46-674.18, 49-506, 66-1518, 66-1522, 66-1529.02, 81-1504.01, 81-1505.01, 81-15,120, 81-15,123, 81-15,124, 81-15,124.01, 81-15,124.02, 81-15,149, 81-15,151, 81-15,153, 81-15,161, 81-15,166, and 81-2602, Revised Statutes Supplement, 1992, and also sections 46-1301, 46-1302, 46-1303, 81-15,144, 81-15,145, and 81-15,146, Reissue Revised Statutes of Nebraska, 1943, and section 81-15,180, Revised Statutes Supplement, 1992, are repealed.